IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

OP.No. 7313 of 2002(U)

PETITIONERS:

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1. ALUVA MEGHALA GENERAL WORKERS' ASSOCIATION (INTUC), SOUTH KALAMASSERY UNIT, REPRESENTED BY ITS CONVENOR.

2. ERNAKULAM DISTRICT HEADLOAD AND GENERAL WORKERS' UNION (CITU), SOUTH KALAMASSERY UNIT, REPRESENTED BY ITS CONVENOR.

3. HEADLOAD AND GENERAL WORKERS' UNION(STU) SOUTH KALAMASSERY, REPRESENTED BY ITS CONVENOR.

BY ADV. SRI.H.B.SHENOY
SRI.B.ASHOK SHENOY

RESPONDENTS:

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1. THE REGIONAL JOINT LABOUR COMMISSIONER (APPELLATE AUTHORITY UNDER KERALA HEADLOAD WORKERS ACT 1978), CIVIL STATION, KAKKANAD, KOCHI-682 030.

2. THE DISTRICT LABOUR OFFICER, CIVIL STATION, KAKKANAD, KOCHI-682 030.

3. M/S. TEAMS ELECTRONICS PVT.LTD., KALAMASSERY REPRESENTED BY ITS MANAGING DIRECTOR.

4. KERALA HEADLOAD WORKERS WELFARE BOARD, KALAMASSERY SUB COMMITTEE, KALAMASSERY REPRESENTED BY ITS CHAIRMAN.

BY ADV. SRI.SHAFFIQUE
SRI.A.K.JAYASANKAR NAMBIAR
BY ADV.SRI.BENNY.P.THOMAS.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (OP NO.7313 OF 2002)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of order dtd.15.1.2001 passed by R2.

Ext.P2: Copy of petition dtd.3.8.2001 filed by petitioner before R1.

Ext.P3: Copy of order in H.A.No.7/2001 dtd.3.11.2001 passed by R1.

RESPONDENT'S EXHIBITS:

Ext.R3(a): Copy of order dtd.21.3.2000.

Ext.R3(b): Copy of order dtd.15.1.2001.

-True Copy-

P.A.to Judge.

S.SIRI JAGAN, J.

O.P.NO. 7313 OF 2002

Dated this the 19th day of March, 2007

J U D G M E N T

Petitioners in this original petition are three unions of head load workers who are employed in Pool No.16 of the Kalamassery Local Committee of the fourth respondent-Board. They are aggrieved by Ext.P1 order of the original authority and Ext.P3 order of the Appellate Authority under Section 21 of the Kerala Head Load Workers Act ('the Act' for short). In these orders, the authorities held that the head load workers of Pool No.16 are entitled to head load work of the third respondent's establishment only if the third respondent needs head load workers in addition to the six attached workers who are registered under the rules and schemes.

2. The contention of the petitioners is that the six workers who have been given preferential right of employment under the third respondent are only name lenders and are not actual head load workers. According to the petitioners, this fact

would have been clear if the authorities under Section 21 of the Kerala Head Load Workers Act had summoned the employment records kept by the third respondent, for which they had made a specific request to the original and Appellate Authorities.

3. In Exts.P1 and P3, the Authorities took a stand that the six head load workers attached to the third respondent have obtained registration under the Rules and the Scheme under the Act. Granting of registration itself was the subject matter of a dispute which has been finally decided in favour of the six workers, which has already been confirmed in appeal. The Authorities held that in so far as the registration granted to the six head load workers under Rule 26 A of the Kerala Head Load Workers Rules as attached workers of the third respondent has not been subjected to further challenge, petitioners cannot now challenge the employment of the six workers by the third respondent and the preference granted to them in the matter of employment in the third respondent's establishment as against the workers in Pool No.16.

4. Learned counsel for the third respondent also would support the findings in Exts.P1 and P3. He would specifically

point out that these six workers were attached workers of the third respondent when the third respondent's godown was functioning in the Willingdon Island. When the godown was shifted to Kalamassery, their registration cards were surrendered and fresh registration was obtained for working in the Kalamassery area. That registration itself was the subject matter of a dispute which has been finally decided in favour of the six workmen and has become final. He would submit that in view of that fact, the petitioners cannot now reagitate the same question again on the ground that those workers are name lenders etc.

5. I have considered the rival contentions in detail. It is an admitted fact that the six workers mentioned in Exts.P1 and P3 were original workers of the third respondent while the third respondent had a godown at Willingdon Island. When the godown was shifted to Kalamassery, those six workers were also shifted to Kalamassery and fresh registrations were obtained in respect of the six workers after surrendering their earlier registration at Willingdon Island. In so far as the dispute relating to such registration has become final, by orders of the Original and Appellate Authorities under Section 21 which has not

been subjected to further challenge by the petitioners, they cannot now contend that, that decision is not binding on them. They cannot also now re-agitate the issue again by raising another dispute claiming preference in employment as against the six workers. That issue has already become final. I also note that the petitioners have not chosen to make the six workers against whom they claim preference as parties to the original petition, for which reason also this writ petition is liable to be dismissed.

In the above circumstances, I do not find any merit in this original petition, and the same is dismissed.

S.SIRI JAGAN,
Judge

Mbs/